




## CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 12, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0252

### **Allegations of Misconduct & Director's Findings**

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties, 5.001-POL-14. Retaliation is Prohibited	Sustained
# 2	5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional	Sustained

#### **Proposed Discipline**

1 to 3 Days Suspension
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#### **Imposed Discipline**

3 Days Suspension
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***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **ADMINISTRATIVE NOTE ON PROPOSED FINDINGS:**

*When the OPA Director recommends a sustained finding for one or more allegations, a discipline committee, including the named employee's chain of command and the department's human resources representative, convenes and may propose a range of disciplinary to the Chief of Police. While OPA is part of the discipline committee, the Chief of Police decides the imposed discipline, if any. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.*

### **EXECUTIVE SUMMARY:**

The Complainant and Named Employee #1 (NE#1) are parking enforcement officers (PEOs). The Complainant alleged that NE#1 retaliated against her because she filed an OPA complaint against NE#1. The Complainant also alleged that NE#1 harassed her, filed multiple unfounded complaints against her, and created a hostile work environment.

### **ADMINISTRATIVE NOTE:**

On September 15, 2023, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

### **SUMMARY OF INVESTIGATION:**

OPA received a complaint and opened an investigation, including reviewing the OPA complaint and NE#1's complaint history. OPA interviewed the Complainant, Witness Supervisor #1 (WS#1), and NE#1.



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*A. OPA Complaint*

The Complainant called OPA on April 26, 2023, and left a voicemail. The Complainant said NE#1 constantly harassed her, created a hostile workplace environment, and retaliated against her “for things that happened in the past.”

OPA spoke with the Complainant on May 1, 2023. The Complainant said NE#1 had a pattern of making unfounded complaints. The Complainant said she previously filed human resources and OPA complaints against NE#1, and NE#1 made complaints against her in retaliation. The Complainant said on April 24, 2023, NE#1 walked by her in a parking lot and scowled at her for making eye contact. The Complainant said she asked a supervisor whether NE#1 complained about that incident, and the supervisor confirmed that NE#1 did. The Complainant said she was uncomfortable at work due to NE#1’s baseless complaints.

*B. Named Employee #1’s Complaint History*

OPA contacted Witness Supervisor #2 (WS#2)—an equal employment opportunity (EEO) investigations manager—who provided a document detailing NE#1’s complaint history. That document is summarized, in pertinent part, as follows:

In 2014, NE#1 filed three EEO and two OPA complaints. None resulted in sustained findings. In 2020, NE#1 met with WS#2 to file a complaint. It was referred to the Human Resources Investigations Unit (HRIU), but NE#1 later withdrew that complaint. NE#1 also filed two HRIU complaints. Neither resulted in sustained findings.

WS#2 documented the following events in 2021: First, NE#1 informed WS#2 of a complaint against her co-worker but withdrew it. Second, the Seattle Parking Enforcement Officers’ Guild (SPEO) filed a complaint against NE#1. That complaint appeared to be resolved by a supervisor and referred to OPA. Third, HRIU informed WS#2 that NE#1 filed an OPA complaint, but NE#1 stated her intention to withdraw it. Fourth, NE#1 sent a “memo of complaint” to a supervisor. That complaint was forwarded to OPA and became 2021OPA-0219, described below.

WS#2 documented a meeting with NE#1 and an SPEO representative on February 22, 2021. WS#2 wrote, among other things, “I advised [NE#1] on the appropriate use of the [EEO, HRIU, and OPA] complaint systems. I asked [NE#1] if she had any valid complaints that she wished to file. She said, ‘No.’ I then advised her that continuing to file meritless or withdrawn complaints could subject her to allegations of retaliation and untruthfulness. I further advised her that, of course, all investigative bodies would welcome the [ ] receipt of any legitimate complaints of rule/law violations for which she was willing to provide evidence. [NE#1] re-stated that she had no complaints to be made.”

In 2021, NE#1 was associated with two OPA complaints. First, in 2021OPA-0219 (filed on May 3, 2021), NE#1 alleged that six PEOs, including the Complainant, harassed her. OPA found no evidence to support NE#1’s allegation, disposing of 2021OPA-0219 as a Supervisor Action<sup>1</sup>. Second, in 2021OPA-0320 (filed on July 7, 2021), five PEOs, including the Complainant and an administrative assistant, alleged that NE#1 repeatedly filed baseless complaints against them. The 2021OPA-0320 DCM said, “OPA believes that filing numerous complaints against co-workers and withdrawing most is not an appropriate or healthy way to handle workplace conflict.” The DCM also said, “OPA puts NE#1 on notice that any similar behavior to this moving forward will result in an investigation and the likely imposition of discipline.”

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<sup>1</sup> A case classified as a Supervisor Action generally involves a minor policy violation or performance issue that is best addressed through training, communication, or coaching by the employee’s supervisor. OPA Internal Operations and Training Manual section 5.4(B)(ii).



Ultimately, a Not Sustained - Training Referral finding was recommended. Still, the DCM admonished NE#1 that “any future abuse of the complaint system will no longer be tolerated and may result in discipline.”

WS#2 documented a March 23, 2022, incident where HRIU contacted WS#2 regarding a complaint filed by NE#1 against five unnamed co-workers. That complaint did not provide details.

### *C. OPA Interviews*

#### *1. The Complainant*

OPA interviewed the Complainant. The Complainant discussed three recent incidents involving NE#1. In the first incident, the Complainant said NE#1 sat in a department vehicle while she walked past NE#1. The Complainant said she made eye contact with NE#1 as she walked into a building. The Complainant said NE#1 then went inside and complained to WS#1—the Complainant’s supervisor—about the Complainant “intimidating” her. In the second incident, the Complainant said she walked behind NE#1 on a stairway and saw NE#1 looking back at her with an “upset” face. The Complainant said NE#1 complained again to WS#1 about the Complainant “intimidating” her. In the third incident, the Complainant said she and her daughter were in a department vehicle talking when NE#1 walked by, made eye contact with the Complainant, and made the same “upset” face. The Complainant said NE#1 complained to WS#1 about how the Complainant looked at NE#1. The Complainant said she and NE#1 did not speak to each other in all three incidents. The Complainant also said she had a blank face when she and NE#1 made eye contact in all three incidents.

The Complainant said she wanted to file a complaint against NE#1 after the third incident because NE#1 made several meritless complaints against her. The Complainant described NE#1’s conduct as a continuing pattern. The Complainant said WS#1 confirmed that NE#1 reported that the Complainant tried to “intimidate” NE#1.

The Complainant requested a full investigation for 2021OPA-0219—a complaint filed by NE#1—because she wanted NE#1 to prove her allegations, but OPA processed it as a Supervisor Action. The Complainant also noted that 2021OPA-0320—a complaint she filed against NE#1—alleged NE#1’s retaliatory behavior. The Complainant believed NE#1’s recent behavior was based on prior OPA complaints. The Complainant feared being targeted by NE#1’s baseless complaints. The Complainant also said that NE#1 slammed locker doors when she and NE#1 were in the women’s locker room.

#### *2. Witness Supervisor #1 (WS#1)*

OPA interviewed WS#1. WS#1 said she supervised the Complainant, not NE#1, during the period in question. WS#1 said she knew the Complainant and NE#1 their entire careers and was formerly their training officer.

WS#1 recounted two incidents in the women’s locker room involving the Complainant and NE#1. WS#1 said NE#1 entered, looked at the Complainant, slammed her locker door, and left. WS#1 said she told NE#1 that she did not know what was going on between NE#1 and the Complainant but slamming the locker door was inappropriate. WS#1 said NE#1 avoided the women’s locker room after she spoke with NE#1.

WS#1 said NE#1 complained a “couple times a week” about the looks the Complainant made at NE#1. WS#1 said once NE#1 reported that the Complainant looked at NE#1 funny and told NE#1 to not look at the Complainant. WS#1 said



NE#1 later suggested that although the Complainant never told NE#1 not to look at her, the Complainant's look conveyed that message. WS#1 said she told NE#1 that NE#1 cannot make a complaint based solely on someone's expression. WS#1 said a complaint requires that a person says or does something. WS#1 said the Complainant avoided the building when NE#1 was there because the Complainant felt uncomfortable. WS#1 said the basis of NE#1's complaints about the Complainant was how she looked at NE#1.

WS#1 said the Complainant asked her whether NE#1 complained about the Complainant, and WS#1 confirmed that NE#1 did. WS#1 said she told the Complainant what NE#1 claimed, the Complainant denied NE#1's claims, and WS#1 agreed with the Complainant. WS#1 described NE#1 as "a different individual." WS#1 said, "You can't really have a conversation with [NE#1], or if you say you can or cannot do something, [NE#1] somehow finds a way to twist things around and just fabricates stories of what's being said." WS#1 believed NE#1's complaints against the Complainant arose from NE#1 disliking the outcome of an OPA complaint that NE#1 filed against six PEOs a few years ago. WS#1 said NE#1 had a bad relationship with the Complainant because the Complainant was a union leader, and NE#1 felt unsupported by the union.

### *3. Named Employee #1 (NE#1)*

OPA interviewed NE#1. NE#1 said she knew the Complainant for 11 years. NE#1 described a 2018 incident where a supervisor told her to shut up. NE#1 said she wanted to complain to the union, but the Complainant advised against it since it would be perceived as retaliation. NE#1 said she did not like the way the Complainant communicated that message to her. NE#1 said the 2018 incident did not affect this current OPA complaint.

NE#1 said she could not remember any interactions with the Complainant around April 2023. NE#1 recalled an incident in November 2022 when the Complainant made NE#1 feel uncomfortable and was not nice to NE#1, so NE#1 spoke to WS#1 about it. NE#1 said she was in her scooter charging her phone when the Complainant walked by and looked at her. NE#1 said they did not speak to each other. NE#1 said she did not want to approach the Complainant, so she exited the scooter and reported the incident to WS#1. NE#1 said WS#1 told her to document it, but NE#1 said she did not. NE#1 said she felt uncomfortable because the Complainant gave her "the evil eye." NE#1 said there were no other times that she spoke to WS#1.

NE#1 said she could not recall an interaction with the Complainant when they were walking up a stairway. NE#1 said she could not recall being in a locker room while the Complainant and WS#1 were present. NE#1 said there were a few instances where she entered the locker room, and the Complainant was already inside but could not recall anything significant about those instances. NE#1 said she could not recall slamming a locker door. NE#1 said she never spoke to the Complainant in the locker room.

NE#1 denied creating a hostile work environment, saying she did not speak to the Complainant and hardly ever saw the Complainant. NE#1 denied filing complaints in retaliation against the Complainant. NE#1 said her supervisor encouraged her to try to resolve the conflict between her and the Complainant, but NE#1 made no effort.



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**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 – Allegation #1**

***5.001 – Standards and Duties, 5.001-POL-14. Retaliation is Prohibited***

The Complainant alleged that NE#1 retaliated against her.

SPD policy precludes its employees from engaging in retaliation. SPD Policy 5.001-POL-14. SPD employees are specifically prohibited from retaliating against a person who engages in activities, including, but not limited to, opposing any practice that is reasonably believed to be unlawful or in violation of SPD policy, or who otherwise engages in lawful behavior. *Id.* Retaliatory acts are defined broadly under SPD’s policy and include “discouragement, intimidation, coercion, or adverse action against any person. *Id.*

Here, NE#1 complained to WS#1 about the “looks” the Complainant made to her, allegedly in retaliation against the Complainant. In 2021, OPA put NE#1 on notice that making unfounded complaints against her co-workers “will result in an investigation and the likely imposition of discipline.” OPA unequivocally admonished NE#1 that “any future abuse of the complaint system will no longer be tolerated and may result in discipline.” In this situation, the multiple incidents of NE#1 making unfounded complaints to WS#1 cannot be viewed in any way other than retaliation against the Complainant.

WS#1—the most objective witness in this case who knew the Complainant and NE#1 their entire careers and trained them—corroborated the Complainant’s account, while NE#1 claimed to have not recalled any incident. The evidence in this case is not in any credible dispute. While NE#1 did not file formal complaints against the Complainant about the Complainant’s “looks,” NE#1 verbally complained to WS#1 at least a “couple times a week.” WS#1 and the Complainant independently provided a consistent account: in all incidents, the Complainant did not say a word to NE#1 and did not do anything other than look at NE#1. Yet, in each instance, NE#1 felt this behavior warranted a complaint to the Complainant’s supervisor. WS#1 told NE#1 that NE#1 could not complain about the Complainant’s looks. WS#1 also told NE#1 that the Complainant needed to have said something or done something other than make eye contact with NE#1. However, despite WS#1’s instruction, NE#1 continued to complain about the Complainant’s looks knowing that her complaints were unfounded.

The above-described events cannot be viewed in isolation. Prior OPA complaints likely explain why NE#1 wanted to complain to WS#1 over trivial matters. In 2021OPA-0219, NE#1 alleged that six PEOs, including the Complainant, harassed her, but OPA closed that complaint when it found no evidence to support her allegation. In 2021OPA-0320, the Complainant was one of several complainants who alleged that NE#1 repeatedly filed unfounded complaints against them. OPA agreed but put NE#1 on notice that “any similar behavior to this moving forward” will not be tolerated. NE#1’s pattern of making unfounded complaints reemerged in 2023.

NE#1’s responses in her interview also support the Complainant’s allegation that NE#1 was retaliating against the Complainant. NE#1 said she did not speak to the Complainant and hardly ever saw the Complainant. NE#1 also said there were no instances that stood out to her in the past with the Complainant. NE#1 essentially described a working relationship that had little to no interaction between the parties. Yet, NE#1 felt compelled to complain “a couple times a week” to WS#1 when the Complainant gave her an “evil eye” or made an “intimidating” facial expression. NE#1’s frequent complaints to WS#1—while knowing they were unfounded—cannot be explained without the backdrop of the prior OPA complaints. OPA finds that, more likely than not, NE#1 retaliated against the Complainant.



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Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #1 – Allegation #2**

***5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional***

The Complainant alleged that NE#1 was unprofessional.

SPD employees must “strive to be professional.” SPD Policy 5.001-POL-10. The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. *Id.* Additionally, employees must “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” *Id.* “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” *Id.*

Here, the Complainant felt harassed and believed NE#1 created a hostile workplace environment. NE#1 knowingly made several baseless or flimsy complaints to the Complainant’s supervisor. That retaliatory behavior created a hostile workplace environment. The Complainant feared being at work while NE#1 was there due to NE#1’s propensity to file baseless allegations. The Complainant said she worried about having to defend herself despite doing nothing wrong. WS#1 said the Complainant avoided going into the building when she knew NE#1 was there because the Complainant felt uncomfortable. Additionally, the Complainant and WS#1 independently provided a consistent account regarding incidents that occurred in the women’s locker room. They described several incidents in which NE#1 saw the Complainant and slammed her locker door. WS#1 was concerned enough that she told NE#1 that slamming locker doors was inappropriate. The overwhelming evidence suggests that NE#1 acted unprofessionally.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**